

DEPARTMENT OF HEALTH SERVICES

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February 22, 1983

To: All County Welfare Directors

Letter No. 83-16

TITLE II DISREGARD PERSONS

As a result of the recent elimination of the special income deduction for ABD persons (as required by AB 799) many Medi-Cal beneficiaries have experienced a substantial increase in their share of cost. Some of these people may be eligible for Title II disregard consideration.

This letter is being sent to inform you of litigation which further clarified the basis of the Title II income disregard; the Pickle Amendment to the Social Security Act.

Title 22, CAC, Section 50564 provides that an aged, blind or disabled (ABD) person who meets all of the following conditions shall be eligible for Medi-Cal as a Title II disregard person with no share of cost. The person must have been:

- (1) eligible for and receiving SSI/SSP benefits in any month after April 1977;
- (2) in receipt of OASDI benefits and received a cost-of-living increase after April 1977;
- (3) not entitled to SSI/SSP benefits in any month since receipt of an OASDI cost-of-living increase and;
- (4) would have been entitled to SSI/SSP benefits if the OASDI cost-of-living increases received after SSI/SSP ineligibility are disregarded.

In the case of Ciampa v. Schweiker, the United States District Court held that federal law requires that Title II disregard status must be given to individuals who were terminated from SSI/SSP for reasons other than the OASDI cost-of-living increase, if the reduction of Title II income by the cost-of-living increase would bring the individual's income below SSI/SSP income limits.

Consequently, we are issuing these instructions to ensure that all counties have implemented the Title II disregard process according to Section 50564 and that these persons are not being disadvantaged by counties limiting Title II disregard status to those individuals discontinued from SSI/SSP solely due to an OASDI cost-of-living increase after April, 1977.

Example 1:

In March, 1980 Mrs. C's monthly OASDI benefit was \$347.00. This amount was reduced by the \$20.00 any income deduction to arrive at a countable income of \$327.00. Since this amount was below the maximum SSI level of \$337.00, Mrs. C was eligible for SSI and automatic, zero share-of-cost Medi-Cal.

In April 1980, Mrs. C received a lump sum payment for past due OASDI benefits. This payment was divided over the months of April, May, and June. As a result, Mrs. C's monthly OASDI benefit was \$347.00, her income from the lump sum payment was \$174.00 and her countable income (less the \$20.00 any income deduction) was \$492.00. Since this was above the \$337.00 SSI maximum, she lost her eligibility for SSI and automatic zero share-of-cost Medi-Cal benefits.

In June 1980, she received a \$50.00 OASDI cost-of-living increase which made her income \$397.00 OASDI + \$174.00 lump sum payment for a countable total income of \$551.00 (\$571.00 - \$20.00 any income deduction). Mrs. C was still ineligible for SSI since, even by disregarding the cost-of-living increase, her countable income still exceeded the SSI maximum.

In July 1980, Mrs. C's monthly income no longer included the lump sum benefit and her OASDI benefit was \$397.00 less \$20.00 any income deduction or \$377.00. Since this is above the SSI maximum of \$375.00 (includes July 1980 cost-of-living increase), Mrs. C is still ineligible for SSI payments.

However, Mrs. C would qualify for automatic Medi-Cal, as a Title II disregard person, since her income, excluding the \$50.00 cost-of-living increase that had occurred since March 1980 (her last month of receipt of both OASDI and SSI), was below the current SSI maximum.

Example 2:

In November 1978, Mr. and Mrs. S received \$481.00 income (\$440.00 OASDI and \$41.00 veterans's benefits). The applicable SSI maximum was \$463.00. By subtracting the \$20.00 any income deduction their countable income is reduced to \$461.00. This amount qualifies them for an SSI payment of \$2.00 and an automatic, zero share-of-cost Medi-Cal card.

In December 1980, their veteran's benefits increased by \$3.00, and they lost their SSI eligibility.

In July 1980, OASDI and SSI had increased to \$495.00 and Mr. and Mrs. S received \$528.00 (484.00 OASDI and \$44.00 veteran's benefits). If their \$44.00 OASDI cost-of-living increase as well as the \$20.00 any income deduction is subtracted from the \$528.00, the resulting figure of \$464.00 is below the current (July 1980) SSI maximum and Mr. and Mrs. S are Title II disregard persons.

The OASDI increase of both ABD spouses should be disregarded if both had been eligible for and in receipt of OASDI and SSI in any month after April 1977.

Please verify that this procedure is being done correctly and that persons entitled to a zero share-of-cost Medi-Cal card are receiving one.

All County Welfare Directors

-3-

February 22, 1983

Thank you for your continued cooperation. If you have further questions, contact Kristi Banion at (916) 445-1797.

Sincerely,

ORIGINAL SIGNED BY

Madalyn M. Martinez, Chief
Eligibility Branch

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants